IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1008 OF 2005
IN
CRIMINAL APPEAL NO.562 OF 2002

Raju Gopal Chavan ...Applicant.

V/s

State of Maharashtra
(Yervada Police Station,
Pune) ...Respondent.

Mr. V.B. Nighot for the applicant.

Mr. A.S. Shitole, APP for the State.

CORAM: V.M.KANADE,J.

DATE: 16th March, 2005

P.C.:

1. Heard the learned counsel for the applicant and the learned A.P.P. for the State.

2. This is an application by the accused seeking stay to the conviction and sentence and Judgment and Order passed by the 4th Additional Sessions Judge, Pune. By the said Judgement and Order, the Trial Court has convicted the applicant for an offence punishable under Sections 498(A), 306 of the Indian Penal Code.

3. It is submitted by the learned Counsel for the Applicant that within 20 days after the marriage of the Petitioner with deceased Mangala, she died on

19.5.1985. It is submitted that in her dying declaration she has stated that she has received burn injuries accidently when saree fall on the burning stove while she has preparing tea in the morning.

4. It is submitted that the only other evidence produced by the Prosecution in support of its case is in the form of complaint by the father in-law of the petitioner.

5. It is further submitted that the incident in question took place on 19.5.1985 and thereafter the Petitioner has remarried and has 3 issues out of the second marriage.

6. Considering the peculiar facts and circumstances of the case and particularly the dying declaration which was recorded by the Special Judicial Magistrate, Pune at Exh.35 in which the deceased herself has exonerated the Petitioner, it is a fit case where the order of trial Court should be stayed. With the result, the application is allowed in terms of prayer clause (aa).

V.M. KANADE, J.